

COMMISSIONERS
SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

ORIGINAL

OPEN MEETING ITEM



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ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION
DOCKET CONTROL

DATE: DECEMBER 14, 2015

DOCKET NO.: T-04274A-15-0301

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Yvette Kinsey. The recommendation has been filed in the form of an Order on:

ORBITCOM, INC.
(CANCEL CC&N)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

DECEMBER 23, 2015

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

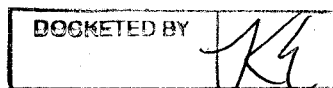
JANUARY 12, 2016

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

DEC 14 2015



JODI JERICH
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov.

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 SUSAN BITTER SMITH - Chairman
4 BOB STUMP
5 BOB BURNS
6 DOUG LITTLE
7 TOM FORESE

8 IN THE MATTER OF THE APPLICATION OF
9 ORBITCOM, INC. FOR CANCELLATION OF ITS
10 CERTIFICATE OF CONVENIENCE AND
11 NECESSITY, REQUEST FOR WAIVER OF
12 PUBLICATION, AND REQUEST FOR RETURN OF
13 BOND.

DOCKET NO. T-04274A-15-0301

DECISION NO. _____

ORDER

14 Open Meeting
15 January 12, 2016
16 Phoenix, AZ

17 **BY THE COMMISSION:**

18 Having considered the entire record herein and being fully advised in the premises, the Arizona
19 Corporation Commission ("Commission") finds, concludes, and orders that:

20 * * * * *

21 **FINDINGS OF FACT**

22 1. On June 21, 2005, the Commission issued Decision No. 67945, approving OrbitCom,
23 Inc.'s ("OrbitCom" or "Company") application for a Certificate of Convenience and Necessity
24 ("CC&N") to provide facilities-based local exchange and resold interexchange telecommunication
25 services within the State of Arizona. Decision No. 67945 required, among other things, that OrbitCom
26 docket conforming tariffs, procure a performance bond in the amount of \$110,000, and file proof of
27 the performance bond with the Commission. The Decision ordered that the bond would remain in
28 effect until further Order of the Commission.

2. On May 6, 2015, OrbitCom and Ionex Communications North, Inc. ("Ionex") jointly
filed an application with the Commission (Docket No. T-03864A-15-0144 et al.) requesting waiver of
Arizona Administrative Code ("A.A.C") R14-2-1901, *et. seq.*, ("Slamming Rules"), stating the intent
of Ionex to purchase certain assets and customers of OrbitCom and to transfer those customers to Ionex.

1 In that Docket, the Commission issued Decision No. 75169 (July 15, 2015): 1) approving the joint
2 application; 2) requiring Ionex and OrbitCom to file, upon closure of the transaction and transfer of
3 customers to Ionex, a notice informing the Commission that the transaction was complete; and 3)
4 requiring OrbitCom to file within ninety (90) days of the closing an application to cancel its CC&N.¹

5 3. On August 19, 2015, OrbitCom filed an application with the Commission to cancel its
6 CC&N to provide facilities-based local exchange and resold interexchange telecommunication services
7 in Arizona, waiver of the notice and publication requirements set forth in A.A.C. R14-2-1107 (A)-(B),
8 and for the release and return of its performance bond in the amount of \$110,000 on file with the
9 Commission.

10 4. On September 25, 2015, the Commission's Utilities Division ("Staff") filed a Staff
11 Report in this matter, recommending approval of OrbitCom's application.

12 5. Pursuant to A.A.C. R14-2-1107 (A)(2), telecom companies are required to provide
13 notice to all affected customers when they intend to discontinue services. Further, A.A.C. R14-2-1107
14 (B) requires that telecom companies publish legal notice of their intent to discontinue service. Staff
15 states that because OrbitCom has no customers in Arizona waiver of A.A.C. R14-2-1107 (A)(2) and
16 (B) is appropriate. Staff also recommends that OrbitCom's tariffs be cancelled and its bond on file
17 with the Commission be returned.

18 6. Staff's recommendations are reasonable and should be adopted.

19 CONCLUSIONS OF LAW

20 1. OrbitCom, Inc. is a public service corporation within the meaning of Article XV of the
21 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

22 2. The Commission has jurisdiction over OrbitCom, Inc. and the subject matter of the
23 application.

24 3. The cancellation of OrbitCom, Inc.'s CC&N to provide facilities-based local exchange
25 and resold interexchange telecommunications services in Arizona is in the public interest.

26
27
28 ¹ The notice of the completed transaction was filed on July 22, 2015, in Docket No. T-03864A-15-0144 et al.

1 4. Granting waiver of the notice and publication requirements set forth in A.A.C. R14-2-
2 1107(A)-(B) is reasonable in this matter.

3 5. Staff's recommendations are reasonable and should be adopted.

4 ORDER

5 IT IS THEREFORE ORDERED that OrbitCom, Inc.'s application to cancel its Certificate of
6 Convenience and Necessity to provide facilities-based local exchange and resold interexchange
7 telecommunication services in Arizona is hereby approved.

8 IT IS FURTHER ORDERED that OrbitCom, Inc. is hereby granted a waiver of the notice and
9 publication requirements set forth in A.A.C. R14-2-1107 (A)-(B).

10 IT IS FURTHER ORDERED that OrbitCom, Inc.'s tariffs on file with the Arizona Corporation
11 Commission are hereby cancelled and the Company is no longer subject to the requirements in Decision
12 No. 67945.

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1 IT IS FURTHER ORDERED that OrbitCom, Inc.'s performance bond on file with the Arizona
2 Corporation Commission is hereby released and shall be returned to:

3 Ms. Meredith A. Moore
4 Cutler Law Firm, LLP
5 100 North Phillips Avenue, 9th Floor
6 Post Office Box 1400
7 Sioux Falls, South Dakota 57101-1400

8 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

9 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

10 CHAIRMAN _____ COMMISSIONER _____

11 COMMISSIONER _____ COMMISSIONER _____ COMMISSIONER _____
12

13
14 IN WITNESS WHEREOF, I, JODI JERICH, Executive Director
15 of the Arizona Corporation Commission, have hereunto set my
16 hand and caused the official seal of the Commission to be affixed
17 at the Capitol, in the City of Phoenix, this _____ day
18 of _____ 2016.

19 _____
20 JODI JERICH
21 EXECUTIVE DIRECTOR

22 DISSENT _____
23

24 DISSENT _____
25 YK/ru
26
27
28

1 SERVICE LIST FOR:

ORBITCOM, INC.

2 DOCKET NO.:

T-04274A-15-0301

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